

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

QAMIL AVDO,

Plaintiff,

CASE NO. 06-CV-13632

-vs-

PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

MARSHON HOLLINS, et al.,

Defendants.

**ORDER DISMISSING DEFENDANTS MARSHON HOLLINS, LESLY HOLLINS, EVA
AYOUB, DAVID AYOUB, A.U.B. FINANCIAL SERVICES, AND
MICHIGAN COMMUNITY INTERNATIONAL FINANCIAL AND TRADING
FOR LACK OF PROSECUTION**

On September 17 2007, the Court issued an Order to Show Cause as to why this action should not be dismissed for failure to prosecute as it appeared from the record Plaintiff failed to effect service on Defendants Marshon Hollins, Lesly Hollins, Eva Ayoub, David Ayoub, A.U.B. Finanical Services, Michigan Community International Financial and Trading, Grace Title Agency, Inc., and Charles Foster. At a hearing on September 26, 2007, Plaintiff's attorney represented to the Court that service was effected on Charles Foster and Grace Title Agency. Plaintiff's attorney further stated that he was waiting for the disposition of previously the filed Motion to Dismiss before he served the other Defendants. Plaintiff did not provide any proof of service at the hearing for any Defendant, nor did he provide any proof of waiver of service pursuant to Federal Rule of Civil Procedure 4(d)(2).

Federal Rule of Civil Procedure 4(l) states "If service is not waived, the person effecting service shall make proof thereof to the court . . . failure to make proof of service does not affect the

validity of the service. The court may allow proof of service to be amended.” Further, Rule 4(m) specifies that service must be made upon a defendant within 120 days after the filing of the complaint. This action was filed on August 14, 2006, therefore, service must have been made by December 12, 2006 to be considered timely under the Rule. Plaintiff’s attorney has admitted that he not yet served Marshon Hollins, Lesly Hollins, Eva Ayoub, David Ayoub, A.U.B. Finanical Services, Michigan Community International Financial and Trading. As more than 120 days has past since the filing of Plaintiff’s claim the Court finds these parties should be dismissed without prejudice for lack of prosecution. Further, the Court orders that Plaintiff shall file proof of proper and timely service as to Defendants Grace Title Agency, Inc. and Charles Foster within 14 days of this Order or risk dismissal of those parties as well.

Therefore, the Court:

- (1) **DISMISSES WITHOUT PREJUDICE** Defendants Marshon Hollins, Lesly Hollins, Eva Ayoub, David Ayoub, A.U.B. Finanical Services, and Michigan Community International Financial and Trading; and
- (2) **ORDERS** that Plaintiff shall file proof of service as to Defendants Grace Title Agency, Inc. And Charles Foster within 14 days of this Order or risk dismissal for lack of prosecution.

SO ORDERED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: September 28, 2007

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on September 28, 2007.

s/Denise Goodine
Case Manager